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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/727,554	12/04/2000	Masahiro Arai	040679/1173	4320

7590 08/27/2002

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EXAMINER

CORRIGAN, JAIME W

ART UNIT	PAPER NUMBER
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3748

DATE MAILED: 08/27/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/727,554

Applicant(s)

ARAI ET AL.

Examiner

Jaime W Corrigan

Art Unit

3748

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 June 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 2-4 and 6-8 is/are allowed.
- 6) ☒ Claim(s) 1,5,9 and 10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

This Office Action is in response to Amendment C and RCE filed on 6-26-02. Claims 1-2, 4-5, 7-8 have been amended. Claims 9-10 have been added. Overall, claims 1-10 are pending in this application.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1, 5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1, 5 are indefinite and unclear in scope since the preamble of the claims states that the system has a throttle valve and the body of the claims states that the system is throttleless.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

In as far as they are definite claims 1, 5, 9-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Luria (PN 4,084,557).

Regarding claims 1, 5 Luria discloses a method for controlling intake air (See Abstract) of an internal combustion engine, the engine having at least one combustion chamber (See Figure 1) provided with an intake valve (See Figure 1 (8)) together with an intake manifold (See Figure 1 (200)) provided with a throttle valve (See Figure 1 (254)), wherein the opening and closure timings of the intake valve are adjustable independently from a crankshaft position (See Abstract, Column 1 Lines 16-29, Column 2 Lines 65-68, Column 3 Lines 1-4) to control the amount of intake air (See Column 1 Lines 16-29) supplied to the combustion chamber, the method comprising: damping an operating signal for the intake valve relative to a change in acceleration or deceleration demand on the engine (See Abstract, Column 2 Lines 64-68, Column 3 Lines 1-4, Column 4 Lines 13-54), for unthrottled intake air control (See Figures 7a, 7b, Column 9 Lines 66-68, Column 10 Lines 1-10).

Regarding claim 9 Luria discloses the operating signal is for timing the opening and closing of the intake valve (See Abstract, Column 2 Lines 64-68, Column 3 Lines 1-4, Column 4 Lines 13-54).

Regarding claim 10 Luria discloses the operating signal is for regulating the air intake into the combustion chamber (See Abstract, Column 1 Lines 16-29).

Allowable Subject Matter

Claims 2, 4, 7-8 are allowed.

Response to Arguments

Applicant's arguments with respect to claims 1, 5 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Luria (PN 4,033,304), Boggs (PN 5,233,948), Schechter (PN 5,996,560), Russ (PN 6,161,521) disclose similar variable valve timing systems.

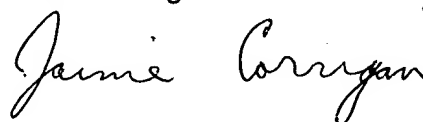
Any inquiry concerning this communication from the examiner should be directed to Examiner Jaime Corrigan whose telephone number is (703) 308-2639. The examiner can normally be reached on Monday - Friday from 8:30 a.m. – 6:00 p.m. 2nd Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas E. Denion, can be reached on (703) 308-2623. The fax number for this group is (703) 308-7763.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0861.

JC

Jaime Corrigan



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August 21, 2002

Patent Examiner

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A handwritten signature in cursive script, appearing to read 'Th Denion', written in black ink.

THOMAS DENION
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700